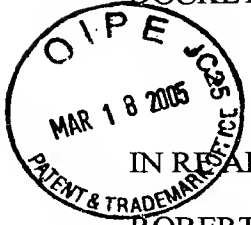


DOCKET NO: 260158US28



IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :

ROBERT F. CRUICKSHANK III, ET AL. : EXAMINER: PATEL, DHAIRYA A.

SERIAL NO: 09/995,056 :

FILED: NOVEMBER 26, 2001 : GROUP ART UNIT: 2151

FOR: NETWORK PERFORMANCE :
MONITORING

RESPONSE TO RESTRICTION REQUIREMENT
AND PRELIMINARY AMENDMENT

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

In response to the Official Action mailed February 18, 2005, Applicants submit the restriction is moot in view of the present preliminary amendment. However, should the preliminary amendment not be entered, Applicants elect with traverse, Group 1, Claims 1-23, classified in class 709, subclass 224. Applicants submit the claims of the present invention appear to be part of an overlapping search area. Accordingly, Applicants also respectfully traverse the outstanding restriction requirement on the grounds that a search and examination of the entire application would not place a *serious* burden on the Examiner, but would place a substantial burden on Applicants to prosecute three separate applications.

Prior to examination on the merits, please amend the above-identified patent application as follows:

03/22/2005 JADD01 00000011 09995056

Amendments to the Claims are reflected in the listing of claims which begins on page 2 of this paper.

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Remarks/Arguments begin on page 15 of this paper.